

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 6, 2003

10:06 a.m.

Reported by
Peter Petty
Contract No. 150-01-006

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

COMMISSION MEMBERS PRESENT

Chairman William J. Keese

James D. Boyd, Commissioner

John L. Geesman, Commissioner

Robert Pernell, Commissioner

Arthur H. Rosenfeld, Commissioner

STAFF PRESENT

Tim Olson

Bill Chamberlain, Chief Counsel

Bob Therkelsen, Executive Director

Roberta Mendonca, Public Advisor

Song Her, alternate Secretariat

Elaine Sison-Lebrilla, Geothermal Program Manager

Valentino Tiangco, Geothermal

Gabriel Herrera, Senior Staff Counsel

Rasa Keanini

Paul Kramer, Staff Counsel

Mike Trujillo

David Maul, Systems Assessment & Facilities Siting

Mary Dyas, Project Manager

Susan Gefter

A P P E A R A N C E S (continued)

ALSO PRESENT

Tom Box, Calpine

Steven M. Cohn, SMUD

James R. Shetler, SMUD

Taylor O. Miller, Sempra Energy

Raymond P. Kelly, Sempra Energy

Joseph H. Rowley, Sempra Energy

John J. Barta, Sempra Energy

Sara J. Head, ENSR

Arrie Bachrach, ENSR

Scott Blaising, City of Escondido

Bill Powers, BPPWG (via telephone)

PUBLIC COMMENT

Janie Painter, Save Medicine Lake Coalition
(via telephone)

Peggy Risch, Mount Shasta Bio-Regional Ecology
Center (via telephone)

Bob Sarvey (via telephone)

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P R O C E E D I N G S

2:02 p.m.

CHAIRPERSON KEESE: Okay, I call this meeting to order. Commissioner Rosenfeld, will you lead us in the pledge, please?

(Whereupon, the Pledge of Allegiance was recited in unison.)

CHAIRPERSON KEESE: Thank you, everyone. We'll take up the consent calendar first. That is, we will take up the consent calendar items A through G, excluding item B which we will take up separately. Do I have a motion on the consent calendar?

COMMISSIONER ROSENFELD: I move the consent calendar.

(Thereupon, the motion was made.)

CHAIRPERSON KEESE: Motion, Rosenfeld. Second?

COMMISSIONER BOYD: Second.

(Thereupon, the motion was seconded.)

CHAIRPERSON KEESE: Second, Boyd.

All in favor?

(Ayes.)

Opposed? Adopted five to nothing. Then item B we will take up separately. That is the

1 Korea-Pacific U.S. Joint Conference. Possible
2 approval of a co-sponsorship by the Energy
3 Commission for the second Korea-Pacific U.S.
4 States Joint Conference, August 10th and 11th,
5 2003, in Anchorage, Alaska.

6 We're taking this up separately because
7 we are not providing funding.

8 COMMISSIONER BOYD: Well, Mr. Chairman I
9 would like to point out that Commissioner Boyd is
10 no longer going to lead the delegation.
11 Commissioner Boyd is withdrawn. In fact, I would
12 just drop this entire item, we're out of it.

13 COMMISSIONER PERNELL: Is that in the
14 form of a motion, or you want to postpone it?

15 CHAIRPERSON KEESE: Right. I'm going to
16 give staff a, is that --

17 MR. OLSON: I guess, as Commissioner
18 Boyd has stated, originally we were asked to lead
19 this, Commissioner Boyd was asked to lead the
20 entire delegation. The topics changed in the last
21 month and a half to diminish the role of energy in
22 the conference -- it still includes an energy
23 section.

24 In the same timeframe the lead agency,
25 the California Trade and Commerce Agency, has

1 disappeared from the state scene.

2 CHAIRPERSON KEESE: Why don't we just
3 drop this from the agenda? Is that acceptable?

4 MR. OLSON: The only --

5 CHAIRPERSON KEESE: If you want to bring
6 something back, bring something back.

7 COMMISSIONER BOYD: Mr. Chairman, I'm
8 sorry to flip in there like that without giving
9 you advance notice, but it has kind of fallen
10 apart. The only thing that's going to continue is
11 that the Korean delegation will come to the
12 meeting which the state of Alaska is hosting, and
13 then they will move on to the other various
14 states.

15 And they are planning, if I'm correct,
16 Mr. Olson, to come to California. And we've
17 offered to host them and to meet with them and to
18 facilitate their meeting with California business.
19 But we are not going to be in attendance, nor
20 sponsor.

21 CHAIRPERSON KEESE: At the event that
22 takes place in five days.

23 COMMISSIONER BOYD: Right.

24 CHAIRPERSON KEESE: So, --

25 COMMISSIONER PERNELL: Mr. Chairman, I

1 would second Commissioner Boyd's motion to remove
2 this from the agenda.

3 (Thereupon, the motion was made and
4 seconded.)

5 CHAIRPERSON KEESE: It's removed from
6 the agenda. It's a good thing we took it off
7 consent.

8 Item 2, possible approval to move the
9 project drilling site under an existing agreement
10 with Calpine Corporation, from the Pumice Mine
11 area to the Glass Mountain, known to be a thermal
12 resource area, at Telephone Flat area.

13 MS. SISON-LEBRILLA: Good morning. My
14 name is Elaine Sison-Lebrilla. I'm the geothermal
15 program manager. And this is Val Tiangco, also on
16 the geothermal.

17 Calpine was awarded approximately \$1.37
18 million in geothermal program funding for a
19 project to drill an exploration well in the Pumice
20 Mine Prospect at the Glass Mountain KGRA, Known
21 Geothermal Resource Area.

22 At the October 9th, 2002 business
23 meeting Calpine has requested that the drilling
24 site be changed from the Pumice Mine Prospect to
25 the Telephone Flat Prospect. So before you is the

1 approval for that request.

2 CHAIRPERSON KEESE: Thank you. We
3 have - well, before we take motions, I have two
4 people on the phone who want to speak to this
5 issue. Is there anybody in the audience who is
6 here to speak to this issue?

7 Why don't we hear from those on the
8 phone before we take up a discussion. Let's start
9 with Janie Painter.

10 MS. PAINTER: Hello. I'm Janie Painter.
11 I'm the Chairperson of the Save Medicine Lake
12 Coalition. And our group consists of Medicine
13 Lake property owners, recreation users,
14 environmentalists, and concerned citizens alike.

15 And our flyers and our newsletters reach
16 several thousand homes throughout California and
17 elsewhere. And we've gathered some 2,000 local
18 signatures opposing geothermal development within
19 the Medicine Lake highland.

20 As you heard, Calpine has proposed to
21 the Commission to move their Pumice Mine
22 exploration well, 1832, subsidies to a Telephone
23 Flat development well site, 1618.

24 At last years' meeting, to approve the
25 1832 funding, we were told by Ms. Sison-Lebrilla

1 "if Calpine cannot get these permits, cannot pass
2 through other processes that are not within our
3 control, then they will get no funding."

4 The scope of the project has changed.
5 It's now gone from exploration to development.
6 And we're very concerned about that. The only
7 environmental document that describes well 16-18
8 is the final EIR/EIS for the Telephone Flat
9 geothermal development project.

10 The drilling of well 1618 will trigger
11 development. When that happens Calpine must put
12 up millions of dollars in surety bonding for the
13 development. And we feel that the scope of the
14 project has, you know, changed.

15 And we disagree that the Commission
16 should allow this transfer of funds from an
17 exploration project to a development project in
18 the Telephone Flat area.

19 And we would argue that, if the
20 Commission allows this, then this funding
21 transfer, and the Commission conditions, are
22 basically meaningless. And so we would request
23 that you do not allow this transfer. Thank you.

24 CHAIRPERSON KEESE: Thank you. Staff,
25 care to respond to that?

1 MS. SISON-LEBRILLA: Yes. In a letter
2 sent to us by Calpine they indicated that the
3 scope of the project would not change. The budget
4 will not change. They intend to follow all the
5 tasks and produce all the deliverables specified
6 in the grant agreement work statement.

7 CHAIRPERSON KEESE: And they have
8 obtained the permits at this site?

9 MS. SISON-LEBRILLA: Yes, they have.

10 CHAIRPERSON KEESE: Thank you. May we
11 hear from Peggy Risch?

12 MS. RISCH: Hi, my name is Peggy Risch,
13 can you hear me?

14 CHAIRPERSON KEESE: Yes, we can.

15 MS. RISCH: Okay, thank you very much.
16 I'm with the Mount Shasta Bioregional Ecology
17 Center, and I do environmental research for the
18 ecology center.

19 And I'm here to tell you that I have
20 reviewed the solicitation, the GRDA solicitation
21 from last year, the application manual. I've
22 reviewed Calpine's proposal of last year. I've
23 reviewed the transcripts as well of the October
24 9th hearing with the California Energy
25 Commissioners.

1 And I've also reviewed Calpine's June
2 2nd, 2003 letter that Elaine referenced. Based on
3 this record, all of these documents, what I see is
4 that this current proposal to move the conditional
5 -- it was a conditional award -- from that Pumice
6 Mine area to Telephone Flat, is definitely,
7 without a doubt, altering the original scope and
8 purpose of the project, as proposed in Calpine's
9 2002 solicitation.

10 And as such, those conditional -- and it
11 was a conditional award -- should be terminated,
12 as stipulated in the terms and conditions of the
13 GRDA solicitation manual. Part of the reasons
14 have been outlined by Ms. Janie Painter, and I
15 will outline a few others as well.

16 First of all, as you read through
17 Calpine's solicitation, it was clear that that
18 project for the Pumice Mine area, which is three
19 miles further away from the Telephone Flat area,
20 it was for an exploration well, in order to prove
21 a resource in that area.

22 Now the area that the well would be
23 transferred to in Telephone Flat, Calpine has said
24 is a proven resource with three existing wells
25 there that have between three to five megawatts

1 each. The well that is being proposed, as Ms.
2 Painter described, is a development well.

3 There is only one document that
4 references well 1618, and that's the Telephone
5 Flat environmental review. The solicitation that
6 Calpine submitted in 2002 references a 1995
7 environmental document as the basis for that
8 Pumice Mine wells. Two different environmental
9 documents, two different areas.

10 Two different projects. One was an area
11 with a proven resource, another was where there
12 was absolutely no proven exploration deep well.
13 As such, there is different documents and
14 different permits that were required, and the 1995
15 waste discharge requirements, that have ben issued
16 by Central Valley in 1995, was for, again, a
17 different project -- exploration.

18 Now, Elaine referenced that all the
19 permits are in place. But if you look at those
20 permits that were issued by the agencies, it's
21 under the development project, as Janie Painter
22 suggested, a totally different project. As such
23 there are many reasons to go back and look in the
24 terms and conditions of the original solicitation
25 and terminate this.

1 One of the other points, I want to
2 remind the Commissioners, is that I'm very much
3 aware -- and I do believe Elaine received a copy
4 of this -- that the California Energy Commission
5 is currently under review by the Department of
6 Justice, for a Title Six complaint, filed by the
7 Pitt River Tribe and the Native Coalition for
8 Medicine Lake, that alleges violations of the
9 Civil Rights Act of 1964, by the California Energy
10 Commission.

11 And as such, this should play into your
12 consideration of whether you want to again look at
13 an action by the Energy Commission that would
14 support further evidence of that discrimination.
15 The 1995 document that was the basis of the Pumice
16 Mine well was different than the Telephone Flat
17 development project.

18 That project, and that environmental
19 analysis, clearly stated that that project, when
20 implemented, would result in an environmental
21 justice impact to the low-income minority
22 population, the Native Americans. And as such,
23 this proposal, if you accepted it, would result in
24 that environmental justice impact.

25 And I want to remind the Commissioners,

1 too, that I participated last year in the October
2 9th hearing, and it was very clear to me that the
3 Commissioners, at that time, were very much aware
4 of the project and the opposition as such, and the
5 problems that might be incurred in trying to get
6 the permit for the Pumice Mine.

7 And therefore, that award was a
8 conditional award. It was a conditional award, as
9 Janie Painter described, where Elaine stated, if
10 they don't get the permit, then they're not going
11 to get any of the funding.

12 And that Commissioner Boyd had stated "is
13 geothermal never going to be allowed in this
14 area?" Or Mr. Bier quoted "to see if there is, in
15 fact, a geothermal resource that can be tapped in
16 that area." And that's an unknown question at
17 this point.

18 So, as you review those transcripts,
19 it's clear that the funding award of 2002 was
20 conditioned, it was for a different project, and
21 that they failed to meet their task. One of the
22 tasks, Task 1.2 in their solicitations, required
23 Calpine to get their permits in place within six
24 months after the award was signed.

25 That meant in April 2003 Calpine should

1 have had the awards, where they didn't. And one
2 of the reasons they didn't get those permits was
3 essentially what we had informed the commissioners
4 last year, that this area that they wanted to
5 drill in was the Mount Hoffman Rolis (sp) Area,
6 it's an 11,000 acre rolis (sp) area, and that
7 trying to drill in that area under the previous
8 environmental review was basically contrary to the
9 existing laws and the regulations.

10 And the Energy Commission decided that
11 those issues were beyond their scope, but they
12 would condition the award so that they would get
13 all their permits.

14 This hasn't happened, and it is of great
15 illusion, a huge illusion to believe that
16 Calpine's letter of June 2003 stating that it's
17 the same project.

18 It's not the same project. If you go
19 back and look at the scoring that was there, the
20 technical analysis, it was for a totally different
21 exploration project in a different area. The
22 Glass Mountain KGRA, and the Medicine Lake
23 highlands, is large, it's over 66 square miles.

24 And as such, I would really ask that the
25 Commissioners review the record before them, and

1 on that review I'm sure that you will determine
2 that that original award of last year was for a
3 different project, and that what they are
4 proposing now is well beyond (inaudible).

5 And lastly, I'll just say that there are
6 areas within the solicitation manual that talked
7 about when a project would receive a grant, and
8 when a project would receive a loan.

9 And that under the original application
10 that was the criteria for a grant, but what is
11 being proposed here would look more like a loan
12 because of the "near-term revenues" that would
13 trigger the award being under a loan and not a
14 grant.

15 And as such, you know, all the permits
16 are not in place for where they propose to go.
17 Well 1618 is described as a development well in
18 the waste discharge requirements that are before
19 Central Valley. The only existing permit for that
20 well -- there isn't any waste discharge
21 requirements to be issued by the water board for a
22 development well.

23 And if you ask Central Valley Regional
24 Water Quality Control Board they will tell you
25 that their WDR is to be issued for a development

1 is only before the board in September, and that
2 this well 1618 is not an exploration well.

3 So I would ask you to consider these
4 things and to delay ruling on it until you've had
5 a chance to look at all the record that I've
6 described before you. And I believe if you do
7 you'll agree with us that the conditional award
8 should be terminated from last year.

9 And let Calpine come forward when GRDA
10 offers another solicitation, and put forth that
11 project at that time. And I would be very happy
12 to answer any of your questions.

13 CHAIRPERSON KEESE: Uh, thank you Ms.
14 Risch. I have some questions, but mostly for
15 Elaine. Did this project essentially get kicked
16 off with the June letter from Calpine, is that --?

17 MS. SISON-LEBRILLA: There was a kickoff
18 meeting on March 26th.

19 CHAIRPERSON KEESE: To switch sites?

20 MS. SISON-LEBRILLA: The request to
21 switch to relocate the drilling site was
22 officially sent to us by Calpine in a June letter.

23 CHAIRPERSON KEESE: In the June letter.

24 MS. SISON-LEBRILLA: Yes.

25 CHAIRPERSON KEESE: Was this referred to

1 a Committee?

2 MS. SISON-LEBRILLA: The relocation?

3 Yes. It went to the RD&D meeting.

4 CHAIRPERSON KEESE: See, what I see
5 being presented here is beyond the scope, I
6 believe, of the Commission to work on. So my
7 question is was this submitted to a Committee that
8 looked at these issues?

9 MS. SISON-LEBRILLA: The conditional
10 award -- I don't know if I'm answering your
11 question -- but the conditional award was taken to
12 a business meeting in October, but as part of a
13 funding agreement.

14 CHAIRPERSON KEESE: I remember the
15 complexities of that, and I remember the
16 discussion and our decision, which was that we
17 could handle things that were in the jurisdiction
18 of the Energy Commission. We could not handle
19 things that were outside the jurisdiction of the
20 Energy Commission.

21 My question is, the issue that's been
22 raised here is there is a substantial change
23 between the Pumice and the Glass Mountain sites.
24 Was that discussed in a Committee here at the
25 Commission?

1 MS. SISON-LEBRILLA: This request for
2 relocation was taken to the R&D Committee.

3 COMMISSIONER GEESMAN: Mr. Chairman?

4 CHAIRPERSON KEESE: Mr. Geesman.

5 COMMISSIONER GEESMAN: The resolution
6 included in our business meeting binder has as the
7 fourth "whereas" clause that the R&D Committee
8 reviewed and approved a request by Calpine to
9 relocate the drilling site. It looks like the R&D
10 Committee did that on June 12th of 2003.

11 It says 2002 in the resolution, but I
12 would presume from the sequence of other dates
13 that it should be June 12th, 2003. If I was in
14 fact at that Committee meeting I don't recall the
15 level of detail as to whether or not this did
16 represent a change in the scope of the project
17 that would be outside of the parameters of the
18 original solicitation.

19 I certainly do recall a discussion at
20 the October meeting in 2002 that any award would
21 be conditioned on receipt of permits, and I see in
22 the memo in our business meeting binder from Terry
23 Searles to Bob Therkelsen, an explanation that in
24 March of, excuse me in November of 2002 a negative
25 record of decision by the federal government was

1 reversed, followed in March of 2003 by CEQA
2 certification.

3 And then in May the Bureau of Land
4 Management issued all major permits pertaining to
5 the project. Because we have a crowded agenda
6 today it may be best to have the R&D Committee
7 review the material that has been raised by the
8 public comment before asking the full Commission
9 to take action on this.

10 CHAIRPERSON KEESE: Commissioner
11 Rosenfeld?

12 COMMISSIONER ROSENFELD: Mr. Chairman,
13 as Chair of the R&D Committee -- I may not have
14 attended either -- but I have no recollection that
15 this was a controversial matter, so I'm agreeing
16 with Commissioner Geesman that we ought to take it
17 up again.

18 CHAIRPERSON KEESE: Is there any time
19 urgency to this issue?

20 MS. SISON-LEBRILLA: Calpine had
21 expected to start wildpad development in the fall,
22 probably later this month. And that would be the
23 urgency, to delay any work until the Commission
24 approved the relocation.

25 And even if the Commission did approve

1 the relocation, if it's within the time frame that
2 there's snow on the ground, they wouldn't be able
3 to do the work that they had attended to do in the
4 end of August.

5 I do want to point out that one of the
6 conditions of this award was -- in the funding
7 agreement -- was that any location in the well
8 must be approved in writing by the Commission
9 project manager prior to expenditure of the
10 Commission share of funds.

11 And it's possible that the Energy
12 Commission may need to prove this change at a
13 meeting. So that is also part of the condition
14 for this award. So --

15 CHAIRPERSON KEESE: Okay. So let me ask
16 a question here. What is floating here, I
17 believe, in the sense of the Commission, is that
18 we should take this up at the 20th of the month,
19 two weeks from today, and have the Committee do
20 some work in the meantime. Is that a problem?
21 Please identify yourself?

22 MR. BOX: No. My name is Tom Box, I'm
23 Vice-President and Resource Manager at Calpine.
24 The Glass Mountain area is an area that is my
25 responsibility. We are attempting, in Calpine,

1 what we believe is a significant geothermal
2 resource in Glass Mountain.

3 And we have been conducting exploration
4 for many, many years. There really isn't, for the
5 size of development that we need up there, about a
6 50 megawatt project, there really isn't a
7 confirmed resource. I mean, there are wells in
8 the area that have differing potential, some good,
9 some bad.

10 Our initial application to the Energy
11 Commission was to explore an area in the Pumice
12 Mine which we feel has a very high potential. At
13 the time that we made the application --

14 CHAIRPERSON KEESE: Let me try the
15 question once more. Would they, are you
16 prejudiced if we take this up on the 20th?

17 MR. BOX: No, sir. What I really wanted
18 to say is that I believe this is not a change in
19 scope. The exploration well aspect of it.

20 CHAIRPERSON KEESE: Thank you. Well,
21 we're going to give that to the Committee, we're
22 going to pass that off to the Committee because I
23 don't like to do Committee work here. So, with
24 the unanimous consent of the Commission, we will
25 put this over to the 20th, refer back to the

1 Committee to give us a report, and thank Ms.
2 Painter and Ms. Risch for their comments.

3 MS. RISCH: Thank you.

4 MR. BOX: Thank you.

5 CHAIRPERSON KEESE: Okay. That item is
6 over until the 20th. Item 3, Order Instituting
7 Rulemaking Consideration and Possible adoption of
8 an Order Instituting Rulemaking to amend
9 Commission regulations governing the Electricity
10 Generation Source Disclosure Program.

11 MR. HERRERA: Good morning,
12 Commissioners. Gabe Herrera with the Commission's
13 legal office. I'm pinch-hitting for Karen Holmes,
14 who couldn't be here today. I'm here with Rasa
15 Keanini. And we're here to seek the Commission's
16 approval of an order initiating a rulemaking.

17 The purpose of that rulemaking would be
18 to revise the Commission's power source disclosure
19 regulations. Which, among other things, require
20 retail suppliers of electricity to inform
21 consumers who purchase that electricity the power
22 content of the energy sold.

23 These regulations are found in Title 20
24 of the California Code of Regulations, commencing
25 with Section 1390. The purpose of the revisions

1 would be to revise, make some minor changes to
2 align the regulations so that they can work and
3 serve an overlapping purpose for purposes of
4 verifying compliance with the RPS program under SB
5 1078.

6 There may be some additional changes
7 depending on the outcome of SB 185, which is a
8 pending piece of legislation that would require
9 some additional changes in how the Commission
10 regulates the content labels that retail suppliers
11 are required to put out periodically to inform
12 consumers of the content of the energy.

13 Under the order the Renewables Committee
14 would be assigned responsibility for overseeing
15 the rulemaking. The rulemaking would be conducted
16 consistent with the RPS program, and to the extent
17 possible would be coordinated with that program so
18 that we use the same service list, so that parties
19 participating in the RPS proceeding could be
20 informed and stay informed at what's happening
21 with the 1305 regulations.

22 And then once the regulations are
23 adopted it would certainly be staff's intent that
24 those revised regulations be used on an interim
25 basis to verify compliance with the state's RPS law.

1 CHAIRPERSON KEESE: Thank you.

2 COMMISSIONER GEESMAN: I'd move the
3 item, Mr. Chairman.

4 CHAIRPERSON KEESE: Motion, Commissioner
5 Geesman.

6 (Thereupon, the motion was made.)

7 COMMISSIONER PERNELL: Second.

8 CHAIRPERSON KEESE: Second, Commissioner
9 Pernell.

10 (Thereupon, the motion was seconded.)

11 CHAIRPERSON KEESE: Any public comment
12 on this item?

13 All in favor?

14 (Ayes.)

15 Opposed? Adopted four to nothing.

16 Thank you very much.

17 Item 4, SMUD Cosumnes Power Plant

18 Project, consideration of possible adoption of a
19 Committee Ex Parte Order re: Geologic Testing in
20 the SMUD Cosumnes Power Plant Project proceeding.

21 COMMISSIONER PERNELL: Mr. Chairman, if
22 I may. This came before the Committee, and the
23 Committee finds that the test power program is a
24 geological investigation and does not constitute
25 in permissible construction for the project.

1 One of the things we wanted to do was
2 make sure that -- with this ex parte order -- was
3 to make sure that all of the parties and with the
4 order such notice was handed out. So we bring
5 this before the Commission with the recommendation
6 from the Committee.

7 CHAIRPERSON KEESE: Thank you.

8 COMMISSIONER BOYD: If that's a motion,
9 Mr. Chairman, I'd like to second it. If it's not,
10 I'd like to make it.

11 CHAIRPERSON KEESE: Motion by
12 Commissioner Pernell, seconded by Commissioner
13 Geesman.

14 (Thereupon, the motion was made and
15 seconded.)

16 I have an Intervenor's comments here.
17 Are you representing this?

18 MS. MENDONCA: Yes, I think Ms. Peasha
19 is actually out of the state, but she faxed us
20 this. Pretty much, her position is that she is
21 opposed to the motion and the ex parte order. She
22 feels that there have been delays, that the permit
23 should be issued before this permission is given
24 to do the site drilling.

25 She feels that there is no need for

1 additional pile testing because the original
2 Rancho Seco facility towers had some studies done
3 that a competent engineer should be able to use to
4 make a determination about the new site.

5 She feels that the public records code
6 section relied upon, 25109, is not squarely
7 applicable. And she feels that the ex parte order
8 does not address the potential impacts of noise
9 and vibration on the nesting Swainson Hawks.

10 And also that it does not -- she feels
11 that the proposal does not adequately reply to the
12 environmental concerns, especially the biological
13 mitigation. so she's asking the Committee not to
14 grant the order.

15 CHAIRPERSON KEESE: Thank you. Did we
16 have somebody from staff who was going to present?

17 MR. KRAMER: Paul Kramer, substituting
18 for Karen Holmes. Staff agrees with the proposed
19 order.

20 CHAIRPERSON KEESE: Thank you. Did you?

21 MR. COHN: Mr. Chairman, members of the
22 Commission, thank you. Steve Cohn, representing
23 the Sacramento Municipal District, and we're here
24 in support of the Committee order. And if you
25 wish we can respond to any questions or comments

1 from the Intervenor. I want to introduce our
2 Assistant General Manager Mr. Jim Shetler.

3 CHAIRPERSON KEESE: Thank you. Staff,
4 would you respond to the Intervenor's comments,
5 please. Did you, have you been given --?

6 MR. KRAMER: No, but I heard them, and I
7 can --. we feel that this is soil testing. I'm
8 not familiar with the site, but if she's talking
9 about the towers, I believe the Applicant wants to
10 test the specific ground and what land maybe even
11 100 feet away from a particular point is probably
12 not good enough proof of what a particular portion
13 of the property is going to do.

14 So they need to test very specific
15 spots. That's our understanding. And we are
16 comfortable with this use of the exception to the
17 definition of construction.

18 COMMISSIONER PERNELL: Mr. Chairman, let
19 me just state, from the Committee's perspective,
20 if the Applicant were to use the testing from the
21 Rancho Seco towers, which was done quite some time
22 ago, I'm not sure exactly how long, but the
23 Committee would be opposed to that.

24 We want to know what the testing is now,
25 not what happened when they were building Rancho

1 Seco 20 years ago or whatever it was. We have
2 reviewed this. The Applicant has obviously sent
3 some comments in -- I mean the Intervenor has sent
4 some comments in, and certainly the Committee took
5 those into consideration.

6 But I don't think that we're doing
7 anything that is not common practice. It is not
8 considered construction, this is testing, and I
9 think testing needs to be done.

10 CHAIRPERSON KEESE: Thank you. Do we
11 have anybody else in the audience to speak to this
12 issue? Hearing none, we have a motion and a
13 second.

14 All in favor?

15 (Ayes.)

16 Opposed? Adopted four to nothing.

17 Thank you.

18 MR. COHN: Thank you.

19 CHAIRPERSON KEESE: Item 5 we're going
20 to put over temporarily until a little later in
21 the meeting. Item 6, the city of San Bruno.
22 Possible approval of a \$26,500 Energy Conservation
23 Assistance Act Account loan to the city of San
24 Bruno to install energy-efficient Light Emitting
25 diode traffic lights.

1 COMMISSIONER ROSENFELD: Motion to move.

2 COMMISSIONER PERNELL: Second.

3 CHAIRPERSON KEESE: Motion from Mr.

4 Rosenfeld and second from Commissioner Pernell.

5 All in favor?

6 (Ayes.)

7 Opposed? The item is adopted. Thank

8 you.

9 Item 7, Air Resources Board. Possible
10 approval to augment \$1,620,000 to the Lower-
11 Emission School Bus Program between the Energy
12 Commission and the California Air Resources Board.
13 To be used as cost-sharing fund for new buses.

14 MR. TRUJILLO: I was hoping for the same
15 thing from last time, just an aye.

16 COMMISSIONER PERNELL: Mr. Chairman, I
17 would move.

18 CHAIRPERSON KEESE: Mr. Pernell moves.

19 COMMISSIONER ROSENFELD: I would second.

20 CHAIRPERSON KEESE: Commissioner
21 Rosenfeld seconds.

22 (Thereupon the motion was made and
23 seconded.)

24 All in favor?

25 (Ayes.)

1 Opposed? Adopted four to nothing. You
2 got it.

3 Item 8 is over to the August 20th
4 meeting. Item 9 is the Yolanda Meade Contract
5 Amendment. Possible approval of a no-cost time
6 extension for Contract 600-01-090 for
7 interpretation services with Mexican co-sponsors.

8 What I will mention here is there's two
9 aspects to this. One is a time extension, and
10 currently we have these arrangements for Central
11 and South American countries. This proposal would
12 be to add Mexico. Non-controversial.

13 MR. OLSON: Mr. Chairman, I'm not sure
14 what you're reading there, but it's been primarily
15 for Mexico all along.

16 CHAIRPERSON KEESE: Then why are we
17 adding Mexican co-sponsors?

18 MR. OLSON: I'm not sure what you're
19 reading there.

20 COMMISSIONER PERNELL: Item 9.

21 CHAIRPERSON KEESE: I'm reading a very
22 unclear description of this item that I've asked
23 for clarification, and thought I gave it a
24 clarification. So you're saying this is a,
25 they're characterizing this as a no-cost time

1 extension.

2 MR. OLSON: Only to extend the time.

3 We're not changing anything in the contract.

4 CHAIRPERSON KEESE: And it's principally
5 with Mexican co-sponsors of our international --.

6 MR. OLSON: The main reason is there
7 were elections in July that changed a lot of the
8 different state governments in northern Mexico,
9 which has caused delay in some of our activities.
10 So we're asking for an extension to March 31st,
11 2004, to conduct all our work.

12 This also includes the Commission's role
13 as the co-chair of the Border Governor Commission
14 energy work table. Commissioner Boyd is the Chair
15 of that Committee.

16 CHAIRPERSON KEESE: In Commissioner
17 Boyd's absence, who just left for that purpose, do
18 I have a motion?

19 COMMISSIONER ROSENFELD: Motion.

20 CHAIRPERSON KEESE: Motion Commissioner
21 Rosenfeld.

22 COMMISSIONER GEESMAN: Second.

23 CHAIRPERSON KEESE: Second, Commissioner
24 Geesman.

25 (Thereupon, the motion was moved and

1 seconded.)

2 All in favor?

3 (Ayes.)

4 Opposed? Adopted four to nothing.

5 Item 10, Orange County Sanitation
6 district, possible approval of a no-cost time
7 extension to contract 700-01-006 from December 31,
8 2003 to December 31, 2004 for the Orange County
9 sanitation district to conduct a pathogen
10 reduction pilot testing program.

11 MR. MAUL: Good morning, Commissioners.
12 Mary Dyas, who is our contract manager, will
13 handle this item for you.

14 COMMISSIONER PERNELL: Mr. Chairman, I
15 would move this item, no-cost time extension.

16 COMMISSIONER ROSENFELD: Second.

17 CHAIRPERSON KEESE: Motion Pernell,
18 second Rosenfeld.

19 (Thereupon, the motion was moved and
20 seconded.)

21 Any objections?

22 All in favor?

23 (Ayes.)

24 Passed four to nothing.

25 Item 11, Aspen Environmental Group

1 Possible approval of a no-cost time extension,
2 again for contract 700-99-014 from August 31st to
3 December 31st to complete and close existing work
4 authorizations and provide engineering/
5 environmental technical assistance to the facility
6 licensing program.

7 COMMISSIONER PERNELL: Mr. Chairman,
8 again I will move the no-cost time extension.

9 COMMISSIONER ROSENFELD: Second.

10 CHAIRPERSON KEESE: Motion Pernell,
11 second Rosenfeld.

12 (Thereupon, the motion was made and
13 seconded.)

14 All in favor?

15 (Ayes.)

16 Opposed? Adopted four to nothing.

17 MR. MAUL: Thank you, Commissioners.

18 CHAIRPERSON KEESE: Thank you. At this
19 moment the Commission is going to go into
20 Executive Session for about five minutes, we hope.
21 We will be back in about five minutes. We'll be
22 adjourning to the adjacent room.
23 (Off the record.)

24 CHAIRPERSON KEESE: We're back on the
25 record. We'll take up item 5, Palomar Energy

1 Project. Possible approval of the Presiding
2 Member's Proposed Decision recommending
3 certification for the proposed 550 megawatt
4 Palomar Energy Project in the City of Escondido,
5 sponsored by Semptra Energy. Ms. Gefter?

6 MS. GEFTER: The Committee, consisting
7 of Commissioner Geesman, Presiding, and Chairman
8 Keese, issued the PMPD recommending certification
9 on June 27th. The comment period ended August
10 1st. We issued an errata, which just deals with
11 comments brought by the parties, none of which
12 change the substantive findings or conclusions of
13 the PMPD.

14 Most of them are clarifications and
15 editorial comments. The Applicant's
16 representatives are here. Mr. Miller is the
17 counsel, Mr. Rowley is the Project Manager. On
18 the phone, I understand the Intervenors are
19 calling in. Mr. Corey Briggs, attorney for the
20 Intervenor, Bill Powers. And I don't know if Bill
21 Powers is on the phone.

22 CHAIRPERSON KEESE: Am I correct, Mr.
23 Powers is on the phone?

24 MR. POWERS: Yes, Mr. Powers is on the
25 phone.

1 CHAIRPERSON KEESE: Thank you. Hold for
2 a second.

3 MS. GEFTER: The Committee recommends
4 certification of the project, and adoption of the
5 PMPD, along with the errata that has been
6 circulated today.

7 CHAIRPERSON KEESE: Thank you. Do we
8 have any questions here?

9 MS. GEFTER: Oh, there are a couple of
10 edits to the errata, and just for the record --
11 they're tedious, but let me just go through it so
12 Mr. Briggs can hear this on the phone.

13 Page two of the errata, in the center of
14 the page, where it says "page six." There's a
15 typo there and it refers to a wastewater treatment
16 plant. It should have said water treatment plant.

17 On page three, where it references page
18 100, it should say "in effect at the time the FDOC
19 was issued."

20 On page 4, at page 102, the reference is
21 to one hour ozone standard.

22 And with that, the Applicant and
23 Intervenor probably have some comments for you.

24 CHAIRPERSON KEESE: Thank you. I assume
25 Applicant is supporting this?

1 MR. MILLER: Yes, sir we are indeed.

2 CHAIRPERSON KEESE: All right.

3 MR. MILLER: We'll just have some very
4 brief comments to make. First of all, I'd just
5 like to introduce and recognize our project team
6 that is with us today.

7 To my right is Mr. Joe Rowley, who's
8 Vice-President of Sempra Energy Resources, and
9 primarily responsible for the conception of the
10 project. Mr. John Barta is a project manager at
11 Sempra Energy Resources. Mr. Ray Kelly, the
12 permitting manager, who assisted throughout the
13 process. And Ms. Sara Head, the chief consultant
14 on the project, from ENSR Consulting, and her
15 primary manager, Arrie Backrach.

16 Mr. Rowley would just like to make a few
17 brief comments to the Commission, and then we will
18 proceed.

19 COMMISSIONER PERNELL: Those people that
20 you mentioned, can they raise their hand?

21 MR. MILLER: Thank you for asking that
22 so we can get them recognized.

23 COMMISSIONER PERNELL: All right. We
24 welcome you all.

25 CHAIRPERSON KEESE: Mr. Rowley?

1 MR. ROWLEY: I would just say that we
2 are pleased and very satisfied that the PMPD
3 reflects the input that we received from the
4 community and incorporated into the project, and
5 it reflects a very exhaustive review by the
6 Committee.

7 It's been our pleasure to work with
8 staff and to work through the process to make this
9 the best project possible, and we look forward to
10 the other opportunity to go forward.

11 CHAIRPERSON KEESE: Okay, thank you.
12 Mr. Blaising, was Mr. Blaising going to make a
13 comment?

14 MR. BLAISING: Yes, thank you, Chairman
15 Keese. Scott Blaising, counsel for the city of
16 Escondido. Let me make just a few brief comments.
17 First, by way of background, the Palomar Energy
18 Project is located in the city of Escondido as
19 part of the Escondido Research and Technology
20 Center.

21 It's a key element in that center, the
22 ERTC. Under the terms of a Memorandum of
23 Understanding, Escondido has worked cooperatively
24 with CEC staff in coordinating the review of the
25 project and the ERTC. Escondido completed its

1 review in November of the ERTC, and certified the
2 final Environmental Impact Report.

3 Escondido has reviewed the findings and
4 conclusion set forth in the Presiding Member's
5 Proposed Decision, and believes they are
6 consistent with those required by Escondido as
7 part of it's approval of ERTC.

8 With respect to the benefits from the
9 project, Escondido supports the findings in the
10 Presiding Member's Proposed Decision that the
11 project will indeed provide a net benefit to the
12 city. The use of recycled water by the project is
13 a key benefit, not only because the project will
14 use ample supply of recycled water, but also it
15 reduces the stress on the ocean outfall system.

16 And then there's additional benefits as
17 well related to additional revenue, additional
18 jobs, and economic support. For all of these
19 reasons the city of Escondido supports the Palomar
20 Energy Project and would urge your approval of the
21 PMPD.

22 CHAIRPERSON KEESE: Thank you. Mr.
23 Cohn, were you going to speak to this issue? Is
24 Mr. Cohn here? I got two cards from him, I think
25 he checked in on the wrong item.

1 I have notes that Mr. Powers and Mr.
2 Sarvey are on the phone. Mr. Powers?

3 MR. POWERS: Yes. Chairman Keese, thank
4 you. Thank you for the opportunity for written
5 comment, and I have prepared some brief written
6 comments that will probably take about six or
7 seven minutes to get through and would like
8 permission to go ahead and --

9 CHAIRPERSON KEESE: Go ahead.

10 MR. POWERS: I'd first like to begin by
11 identifying that I am the Chair of the Border
12 Power Plant Working Group, and the group was
13 established in 2001 in response to the power plant
14 boom that was underway in the border region at the
15 time.

16 Many of the members of the group live in
17 San Diego County. Our objective is to promote
18 environmentally sustainable plant design for
19 border region plants and to ensure the border
20 region can absorb the many plants that have been
21 proposed without suffering major negative
22 environmental impact.

23 The design elements that we have
24 proposed for these projects is straightforward --
25 catalytic air emission controls, emission offsets,

1 dry cooling, and zero liquid discharge. And I
2 think it's important that no one involved in this
3 group has any financial interest or stake in any
4 of this type of hardware.

5 San Diego area is chronically short on
6 water, and there are much higher strategic value
7 uses for the reclaimed water in Escondido than
8 power plant cooling. And I also want to note that
9 the only power plant that the California Energy
10 Commission has licensed to date in San Diego
11 County is the Otay Mesa project, which is a dry-
12 cooled plant.

13 And we do feel that we have a local
14 model for environmental sustainability, and it is
15 the dry-cooled model used at Otay Mesa.

16 We've tried to maintain a very positive
17 effort in promoting these sustainable power
18 plants. One of our first efforts was directed at
19 generating some political momentum behind the
20 issue of power plant water conservation in our
21 region.

22 And that culminated in June 2002 at the
23 Border Governor's Conference in Phoenix, the
24 declaration signed by all ten U.S. Mexican and
25 Border State Governor's, including Governor Davis,

1 which states "promote the development of an
2 environmental strategy for new electrical
3 generation plants in the border region, with the
4 goal of protecting air quality and where possible
5 conserving water resources in the region."

6 And what this declaration means, at
7 least from our point of view, is that California
8 officials can point to this declaration by the
9 Governor in addition to Resolution 7558 in the
10 state water code, as a mandate to ensure that new
11 projects are built -- especially in the border
12 region -- but in the state, to maximize water
13 conservation.

14 I'd like to switch gears to what we
15 would like to see happen, because the reason for
16 my presentation is that we are requesting that a
17 revised PMPD be prepared in this case.

18 And there are several elements that we'd
19 like to see included in this revised PMPD, and one
20 is a detailed explanation and really solution to
21 the huge discrepancy between the amount of sodium
22 hypochlorite biocide being proposed by the
23 Applicant, and what needs to be added to deal with
24 the ammonia in the reclaimed water.

25 Number two, a fairly detailed discussion

1 of the long-term local, regional and state impact
2 of diverting 3.6 million gallons a day of
3 reclaimed water to the Palomar Energy Project.

4 A fair assessment at Palomar, using the
5 Otay Mesa design as a template.

6 And finally, schematics and photo
7 simulations of the proposed project that
8 accurately reflect reality.

9 And we are not alone in this request.
10 We had 13 co-signing organizations to our July
11 24th comment letter sent to the CEC regarding the
12 Palomar PMPD. I'm sure that many of the
13 Commissioners are familiar with some of these
14 organizations, as many of them have been
15 intervenors in cases around the state.

16 They include Butte Environmental
17 Council; California Coast-Keeper Alliance;
18 Californians for Renewable Energy; Center on Race,
19 Poverty and the Environment; Coast Alliance on
20 Plant Expansion; Communities for a Better
21 Environment; Environmental Health Coalition;
22 Escuela De La Raza Unida; Life California; San
23 Diego Bay Keeper; Bob Sarvey; Sierra Club, San
24 Diego Chapter Energy Committee, which has tracked
25 the Palomar Project very closely; Southern

1 California Watershed Alliance; and the Ocean
2 Conservancy.

3 Much of what we are requesting in a
4 revised PMPD is included in other CEC licensing
5 proceedings. I was asked to review the Tesla FSA
6 just last week and was quite surprised to see that
7 there are many elements in the Tesla FSA that we
8 have been requesting for a year and a half in the
9 Palomar proceedings.

10 The Tesla FSA include rationale for
11 including dry cooling in the cooling options
12 analysis. It's identified by staff in the FSA as
13 "based on this increased pressure on water
14 resources, and the direction of state water
15 policies to avoid the use of fresh water for non-
16 potable uses where feasible, staff has analyzed
17 the feasibility of using other sources of water
18 and cooling options for the project."

19 And the Tesla FSA described dry cooling
20 as the best choice of cooling technologies for a
21 steam power plant with regard to water
22 conservation, and that it is equivalent to
23 implementing zero liquid discharge in achieving
24 waste water minimization.

25 Dry cooling is identified in the Tesla

1 FSA as a legitimate cooling alternative, and
2 extremely interesting to us, who have been
3 Intervenors on Palomar, is that the CEC staff
4 optimized the air-cooled condenser in the FSA.

5 It's optimized for low height, it's
6 optimized for low noise, which are two of the
7 issues that have been used to identify dry cooling
8 as infeasible by the Applicant and the CEC at the
9 Palomar site.

10 And really, the standard of care and
11 measure that we have been asking for in Palomar is
12 actually to a large degree met in the Tesla
13 proceeding. I'd also like to point out that we
14 have not been frivolous in our evaluation of the
15 Applicant's or the CEC submittal.

16 We have been consistently correct in
17 identifying emissions or errors in these
18 submittals. Initially the Applicant estimated no
19 ammonia emissions from the cooling tower, until
20 strong evidence was provided by this Intervenor
21 and supporting experts, indicating there would be
22 significant ammonia emissions due to the ammonia
23 in the cooling water.

24 The Applicant then later corroborated
25 the potential for significant emissions in the

1 expert declaration submitted prior to the
2 evidentiary hearing. And we identified that the
3 implications of this are that the Applicant will
4 need to use vastly greater quantities of biocide
5 to maintain their target pre-chlorine residual and
6 to protect the community from Legionella, etc.
7 etc.

8 Now the CEC reaction to this at the
9 evidentiary hearing was to strike the CEC staff
10 document that corroborates the Intervenor's claim
11 about the impact of what this means. The PMPD is
12 silent on this issue, the Applicant was silent on
13 this issue during the evidentiary hearing.

14 However, public works of Escondido
15 recently asked for and received Escondido City
16 Council approval to install this very same ammonia
17 removal equipment, specifically to treat the
18 Palomar Energy reclaimed water, though they did
19 not identify it as equipment needed to treat and
20 remove ammonia going to the reclaimed water.

21 They asked for \$1.3 million to do this.
22 They avoided the controversy. They've avoided the
23 public debate in Escondido over the legitimacy of
24 spending millions of dollars of Escondido money to
25 subsidize a piece of equipment that is critical to

1 this process that we should have debated in the
2 evidentiary process, and we did not.

3 And the interesting aspect of this is
4 that in the Tesla FSA it clearly states that the
5 city of Tracy will provide the ammonia removal
6 equipment to treat reclaimed water going to the
7 Tesla power plant. That FSA was issued before our
8 evidentiary hearings began at Palomar.

9 So I'm somewhat frustrated that this was
10 already an addressed issue in the Tesla
11 proceedings for dealing with reclaimed water, and
12 our silence on this issue in the evidentiary
13 proceeding has allowed that activity to go under
14 the radar screen and not be debated publicly in
15 the city of Escondido.

16 Number two, there is essentially no
17 evaluation of regional and state water
18 availability impacts of using reclaimed water at
19 Palomar. In contrast, both the Tesla AFC
20 submitted by Florida Power and Light and the FSA
21 contain extended discussions of regional and
22 statewide impact of water use at Tesla, and also a
23 very interesting discussion of the state Water
24 Resources Control Board take on delaying an
25 upgrade to Resolution 7558.

1 Number three, neither the Applicant nor
2 the CEC has evaluated or considered an optimized
3 ACC at Palomar. We did put together a preliminary
4 siting and cost estimate for an optimized ACC, one
5 that is low in height and low in noise, that's
6 appropriate for a suburban neighborhood.

7 And also found that, even with those
8 characteristics, the net present value -- not the
9 first cost, which is higher for dry cooling but
10 the net present value over the lifetime of the
11 project -- is essentially the same as the wet
12 cooling approach proposed by the Applicant.

13 And if you add in the ammonia removal
14 process equipment that's now going to be
15 subsidized by the city of Escondido, the cost
16 balance would shift decidedly in favor of the dry
17 cooling option.

18 And if we apply what I will call the
19 Tesla standard, which is treating dry cooling as a
20 legitimate alternative, and apparently looking at
21 it on a cost basis primarily, meaning that if it
22 costs out as inexpensive or less so than the wet
23 options, that the CEC staff would promote it,
24 especially given the water conservation benefit,
25 then I think dry cooling would get a very fair

1 hearing in the Palomar process.

2 And finally, the fourth item is an
3 accurate photo simulation of the project, which
4 has not yet been provided, either by the Applicant
5 nor by the CEC staff. The FSA relies on key
6 observation point three, which is described as the
7 view from the nearest residential neighborhood.

8 It appears to be someone's condominium
9 patio to define three mitigation conditions that
10 will drop what the CEC identifies as the adverse
11 visual impact from significant to not significant.

12 Now I demonstrated during the
13 evidentiary hearings that the elevation views that
14 the Applicant included in the AFC are not
15 accurate. They identify that these are not to
16 scale, but they are showing the largest object in
17 the sketch in that case, the heat recovery steam
18 generator, as significantly shorter than it
19 actually is.

20 And when you correct the scale of the
21 HRSG so that they are accurate, and to a lesser
22 degree correct the scale of the stacks, it makes a
23 major difference in the visual impact of the plant
24 from that key observation point.

25 Based on my rough calculations -- and

1 when I say rough I mean probably plus or minus ten
2 percent -- the amount of gray metal that you will
3 see from that key observation point, meaning the
4 side wall of the two HRSG's, since they are side
5 by side in the stack, doubles. It goes from
6 approximately 2,700 square feet to approximately
7 5,600 square feet.

8 The height of the HRSG that's visible
9 above the berm, because this site is configured
10 such that they're taking advantage to some degree
11 of a berm on the south side to block the view of
12 the plant, the height of the HRSG rises from 20
13 feet above the berm to 42 feet above the berm.

14 This is not just a small adjustment to
15 the existing photo simulation. This is a major
16 adjustment that has a dramatic effect on the
17 visual impact at the plant. And the
18 Commissioners, especially those who have not
19 participated in this proceeding, you can
20 corroborate the discrepancy in one minute by
21 looking at the FSA.

22 Simply look at KOP6, which is a far
23 field view of the site, and you can see that the
24 HRSG's are very significantly greater in height
25 than the cooling tower. You look at KOP3, which

1 has been relied on heavily to set the conditions,
2 and there is almost no difference between the
3 height of the cooling tower and the height of the
4 HRSG.

5 So the issue there is no one has looked
6 at an accurate drawing of the site, and we need
7 one. Or at least we need one that has a key
8 observation point view upon which all of the CEC
9 conditions are based. And just a couple more
10 comments --

11 CHAIRPERSON KEESE: Well, we've got 15
12 minutes. We're 15 minutes into our six or seven
13 minutes.

14 MR. POWERS: I think I need just one
15 minute.

16 CHAIRPERSON KEESE: Okay.

17 MR. POWERS: And that is the counter
18 issue, which is grid stability in the San Diego
19 area versus water resource conservation. Now,
20 admittedly, there may be some other reasons for
21 fast tracking this particular project, but San
22 Diego County has approximately 1,700 megawatts of
23 baseload boiler capacity.

24 At some point in the future, additional
25 power generation assets will be necessary in the

1 county to ensure grid stability when these two
2 plants, South Bay and Encina, are removed from
3 service.

4 But I do feel that the conjectural grid
5 stability issues down the road should not override
6 water conservation considerations that, to the
7 local residents, are just as critical and more
8 immediate than that particular issue.

9 And another point on the same issue of
10 energy stability and energy supply. The San Diego
11 Gas & Electric, which is our local utility, just
12 added over a thousand megawatts of combined cycle
13 capacity that must pass through this system from
14 Mexicali to plants located there, and at least in
15 terms of physical energy that is generated in our
16 service area, we can actually nearly meet our peak
17 energy demand with our local generation capacity.
18 So power availability, even locally, is not a
19 major question here.

20 I would like to commend the CEC staff, I
21 think the staff got it right on their 2003 summer
22 forecast, and their five-year forecast. We have
23 not dipped below ten percent reserve margin at any
24 time this summer, and even when we did dip to ten
25 percent that was optional.

1 We had some assets on standby that could
2 have been brought on. So I think the staff is
3 right, we do not have our backs against the wall
4 as far as needing to fast-track projects due to
5 capacity issues.

6 Finally, and I think this is an
7 important issue in the political arena, I am an
8 active member of the San Diego County Regional
9 Energy Planning Advisory Committee. And SDG&E is
10 a subsidiary of Semptra Energy.

11 And SDG&E representatives have
12 repeatedly emphasized in our meetings that new
13 generation assets are not needed or required for
14 the San Diego area, and that reliance on locally
15 generated power may preclude us, the San Diego
16 residents, from getting the lowest power rates
17 available on the open market.

18 But the reaction has been that the
19 Committee has voted to seek our own, to form our
20 own joint power authority, and get our own local
21 situation in better shape, and not rely on that
22 particular advice.

23 And so, just to summarize, our request
24 is that the CEC Commissioners move to revise the
25 PMPD to adequately address several major

1 outstanding issues currently on the table -- what
2 entity is removing ammonia from the reclaimed
3 water and what is the capital and net present
4 value cost of the ammonia removal operation, as
5 was done in the Tesla FSA.

6 The long-term local, regional, and state
7 impact of diverting 3.6 million gallons a day of
8 reclaimed water to the Palomar Energy Project. A
9 fair assessment of dry cooling at PEP, at Palomar
10 Energy, using Otay Mesa as a template.

11 And finally, schematics and photo
12 simulations at the proposed project that
13 accurately reflect what will be built. Thank you.

14 CHAIRPERSON KEESE: Thank you. Mr.
15 Sarvey?

16 MR. SARVEY: Thank you, Chairman Keese.
17 I just wanted to say that I support Intervenor
18 Powers's dry cooling assertion here. The reason I
19 do is that water and natural gas are finite
20 resources, and it seems illogical to me to use two
21 finite resources to produce one finite resource,
22 electricity.

23 It goes against everything that these
24 purposes were established for, to preserve the
25 precious natural resources of the state. And

1 while obviously it's necessary to use natural gas
2 to protect the electricity in this project, it is
3 not necessary to use water. The project can be
4 dry cooled.

5 It has been demonstrated that recycled
6 water from this project has other beneficial uses,
7 such as agricultural and aquifer recharge project.
8 State water policy favors the use of dry cooling
9 in energy projects when other, more beneficial
10 uses of recycled water are available.

11 And as the leader in resource
12 conservation, which the CEC has been, they should
13 require dry cooling in all areas where water
14 supplies are limited. And clearly it's been
15 demonstrated in this project that dry cooling is
16 the preferred alternative.

17 And I want to congratulate all the
18 parties for a very good job, and thank you for an
19 opportunity to comment.

20 CHAIRPERSON KEESE: Thank you, Bob. Do
21 we have anybody else in the audience to speak to
22 this issue?

23 I would like to clarify the record. I
24 heard the term "fast-track," that we're fast
25 tracking this.

1 We are obligated in our 12-month process
2 to deliver a product within 12 months, and we're
3 now at 18 months, I believe. I think the
4 suggestion that this has been fast tracked is not
5 terribly accurate. Commissioner Geesman, did you
6 have any comments?

7 COMMISSIONER GEESMAN: Just a couple,
8 Mr. Chairman. I'd like to congratulate both the
9 Applicant and the staff for the way in which they
10 conducted at least the part of the proceeding that
11 I'm familiar with.

12 And as you know I came on to this case
13 about a year ago. And both parties have proceeded
14 very efficiently with a high level of
15 professionalism.

16 I'd also like to commend Mr. Powers for
17 the quality of his intervention. The Committee
18 and he obviously look at the record a little
19 differently as it relates to water issues, but his
20 contribution I think consistently upgraded our
21 review of important factual matters.

22 I note also that he participated in the
23 workshop, Mr. Chairman, that you and I attended
24 with Commissioner Boyd on the Environmental
25 Performance Report.

1 And the questions that were raised in
2 that workshop are questions that have come up in
3 this case and in several other deciding cases
4 before the Commission as to whether there is a
5 greater need to clarify state water policy on
6 electrical cooling from what it has been since
7 1975.

8 And if there is such a need who the best
9 source for providing that clarification would be.
10 Whether it's the legislature, the state Water
11 Resources Control Board, the regional boards, or
12 the Energy Commission itself.

13 And I think that's one of the key issues
14 likely to be in front of us as we take up the
15 Integrated Energy Policy Report in a couple of
16 months.

17 And I guess the last thing I'd like to
18 say -- and it's an issue on which I do part
19 company with Mr. Powers, although I admire his
20 zeal in single-minded promotion of dry cooling,
21 which I think is an important solution in many
22 circumstances.

23 In this one, I found the proposed use of
24 reclaimed water to be an environmentally preferred
25 approach. I didn't find the Intervenors failure

1 to consider the impact of ocean discharge
2 particularly satisfying.

3 And I know the importance of finding
4 beneficial uses for reclaimed water, and the
5 difficulty in doing so.

6 I didn't consider our adoption of the
7 reclaimed water alternative in any way to be
8 environmentally inferior to the dry cooling
9 proposal, and I think with respect to local
10 neighborhood impacts on visual effects as well as
11 noise it was clearly preferable.

12 And again, I would say that,
13 particularly in the San Diego area, ocean
14 discharge is something that is of continuing
15 concern in that region and is an important
16 consideration for us as well. Thank you, Mr.
17 Chairman. I would move the item.

18 CHAIRPERSON KEESE: Motion Commissioner
19 Geesman.

20 (Thereupon, the motion was made.)

21 COMMISSIONER PERNELL: Second.

22 CHAIRPERSON KEESE: Second, Commissioner
23 Pernell.

24 (Thereupon, the motion was seconded.)

25 Any further discussion? All in favor?

1 (Ayes.)

2 Opposed? Adopted four to nothing.

3 Thank you. Ms. Gefter?

4 MS. GEFTER: And just as an -- the
5 adoption order that the Commission will sign
6 related to this particular case will be circulated
7 to the Commissioners and copies are already
8 submitted to the parties for their review.

9 CHAIRPERSON KEESE: Thank you.

10 MR. MILLER: Before we, I would just
11 like to express my thanks to the Hearing Officer
12 for the work that she has done throughout the
13 case. And also, of course, to the Chair of our
14 Committee, Mr. Geesman.

15 It's been a very thorough and detailed
16 and, I believe, fair process, so thank you.

17 CHAIRPERSON KEESE: Thank you. Minutes?
18 We have the approval of the minutes of July 23rd?
19 Do I have a motion?

20 COMMISSIONER ROSENFELD: Move.

21 CHAIRPERSON KEESE: Motion, Commissioner
22 Rosenfeld.

23 (Thereupon, the motion was made.)

24 COMMISSIONER PERNELL: Second.

25 CHAIRPERSON KEESE: Second, Commissioner

1 Pernell.

2 (Thereupon, the motion was seconded.)

3 All in favor?

4 (Ayes.)

5 Opposed?

6 COMMISSIONER GEESMAN: Abstain, I wasn't
7 here.

8 CHAIRPERSON KEESE: Commissioner Geesman
9 abstains. Three to nothing. Commission Committee
10 and Oversight. Hearing none, Chief Counsel's
11 Report?

12 MR. CHAMBERLAIN: Yes, Mr. Chairman, I
13 need a brief closed session to discuss the case
14 that recently came down from the Court of Appeal,
15 Figueroa versus California Energy Commission.

16 CHAIRPERSON KEESE: Thank you. Upon
17 completion of our agenda we will recess into
18 executive session, and the meeting will be
19 terminated thereafter. Executive Director's
20 Report?

21 MR. THERKELSEN: Thank you,
22 Commissioners. Just two quick items to let you
23 know that hopefully, by next business meeting,
24 your mikes will be adjusted so you have an on/off
25 capability on them. So, we're working on that.

1 COMMISSIONER PERNELL: Thank you, Mr.
2 Therkelsen.

3 MR. THERKELSEN: Second item is that, as
4 you know, the budget was approved by the
5 legislature and signed by the Governor.

6 The good news is we don't have to worry
7 about what the uncertainty is on what is going to
8 happen to specific programs, the bad news is that
9 to attain the budget, especially the position cuts
10 that were included in that budget, we and other
11 agencies have been asked to increase the layoff
12 plan from a ten percent cut to a 12 percent cut.

13 So we're going through a process to
14 identify what that means. That also will require
15 us to reduce the cut to our operating expenses,
16 from roughly \$2 million to \$2.4 million in terms
17 of reductions in that area. So the Deputy
18 Directors and I are working on those and what they
19 mean.

20 There is one ray of hope. Some of the
21 unions have agreed to absorb the five percent pay
22 increase in an effort to reduce the number of
23 layoffs amongst their members, and that may happen
24 with unions that also represent our particular
25 folks.

1 And if that occurs then that percent cut
2 will probably be decreased dramatically. So that
3 is a continuing uncertainty, but meanwhile we are
4 working forward to presenting and preparing those
5 modified plans that we've been asked to do by the
6 Department of Finance. And we'll keep you
7 informed.

8 CHAIRPERSON KEESE: Thank you. Any
9 questions? The Public Advisor's Report?

10 MS. MENDONCA: Nothing at this time.

11 CHAIRPERSON KEESE: No report at this
12 time. Public Comment? Corey Briggs on the phone?
13 Is this on, the phone?

14 OPERATOR: He disconnected from the
15 call.

16 CHAIRPERSON KEESE: Do we have Mr.
17 Briggs?

18 COMMISSIONER GEESMAN: He was Mr.
19 Powers' attorney, so --

20 OPERATOR: Mr. Taylor, this is the
21 operator. He disconnected from the call.

22 MR. MILLER: Okay, thank you very much.

23 CHAIRPERSON KEESE: Thank you. And this
24 meeting is adjourned subject to our returning to
25 my office for executive session for a legal

1 matter. Thank you.

2 (Thereupon, the business meeting
3 was adjourned to closed session at
4 11:20 a.m.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 11th day of August, 2003.

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